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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 9 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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The meeting was called to order at 10.15 a.m.

STATEMENT BY THE FEDERAL MINISTER FOR FOREIGN AFFAIRS OF AUSTRIA

1. The CHAIRMAN invited the Federal Minister for Foreign Affairs of Austria to address the Commission.

2. Mr. MOCK (Austria) said that his country had had the honour, in June 1993, of hosting the World Conference on Human Rights, the largest conference on the subject held thus far. As President of the Conference, he had been impressed by the high quality of the debates and, most importantly, by the wealth of proposals contained in the Vienna Declaration and Programme of Action.

3. That document represented several important achievements in the field of human rights. The Declaration had confirmed the universal character of human rights and had established the protection and promotion of human rights and fundamental freedoms as a legitimate international concern. It had clearly defined the link between the observance of human rights and development and democracy. It had forcefully reaffirmed the rights of persons belonging to minorities, with particular emphasis on the rights of women and children. Lastly, the Declaration had called upon the entire United Nations systems to give effect to its conclusions and recommendations.

4. At its forty-eighth session, the General Assembly had fully endorsed the Vienna Declaration and Programme of Action and had taken initial steps for its implementation, in particular the establishment of the post of United Nations High Commissioner for Human Rights.

5. The Conference had contributed to the opening of a new era of human rights. Its achievements had found their reflection in unprecedented progress in the Middle East peace process, the adoption of an interim constitution in South Africa, and in developments in Cambodia and in Central America.

6. Nevertheless, massive violations of human rights continued to occur, giving rise to flows of refugees and displaced persons. The horrible massacre in Sarajevo had shocked the world. Such terrible crimes could not be accepted by civilized societies at the end of the twentieth century. The international community must take the necessary action to stop them and, in that connection, the Commission's statement delivered on 8 February 1994 was more than timely. He recalled that, by a vote of 88 to 1, the World Conference had adopted an appeal to stop the genocide in Bosnia and Herzegovina.

7. He wished to pay tribute to the work of the Centre for Human Rights, which urgently needed the additional financial and human resources called for by the Conference. The Commission itself would be playing an important role in the follow-up to the Conference. It already had a number of impressive achievements to its credit, having launched most of the major international human rights instruments and having set up an extensive network of special rapporteurs, experts and working groups. In that connection, he wished to pledge his Government's support for the proposal to appoint a special rapporteur on violence against women.

8. Nevertheless, the system to promote and protect human rights could still be improved. There was a need to increase coordination between its various parts and to gain the full cooperation of all Governments. Closer cooperation among the human rights treaty bodies would lead to a more effective and credible human rights regime and would pave the way towards a unified monitoring system. Increased coordination among all those concerned with human rights would result in more effective action.

9. On the basis of standard-setting, fact-finding and the development of advisory services, a comprehensive set of action-oriented measures could be built for the implementation of human rights standards throughout the world. The entire approach must be integrated and should focus on two main areas. First, adequate international programmes must be developed to build, strengthen and sustain the national infrastructures necessary for democracy, good government and the rule of law; ensuring, through legislation and practical measures, a strong and independent judiciary; and integrating human rights into such areas as the administration of justice, training programmes and education. Secondly, promotion and protection of civil, political, economic, social and cultural rights must be more fully integrated into international and national development strategies. Such an integrated approach would make a decisive contribution to the realization of all the objectives of the Vienna Plan of Action, which necessitated concerted action by everyone, including Governments, international organizations and non-governmental organizations (NGOs).

10. Human rights must be given their proper place in all efforts to ensure peace and security. As the Nobel Peace Prize laureates had said in their message to the World Conference, respect for human rights was the key to peace and there could be no real peace without justice. The truth of that message was to be found in the persistence of tragedies all over the world: international and civil wars, ethnic strife, religious intolerance, racial discrimination, xenophobia and extreme poverty prevented the enjoyment of human rights.

11. Drawing attention to the need to strengthen the protection of the rights of all persons belonging to minorities, a matter of particular interest to his Government, he said that the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities provided an adequate framework for measuring progress in that field.

12. The High Commissioner for Human Rights would have a central role within the entire United Nations system. He should be in a position to provide the international community with a comprehensive picture of the current human rights situation in the world, based on information from all other partners in the human rights field, and make proposals for concrete action necessary for the effective realization of all human rights. He should thus function as an effective coordinator of the entire international human rights system in order to guarantee the integrated and action-oriented approach. Lastly, he should act as a catalyst and stimulate the further development of the international human rights system vis-à-vis new trends and challenges.

13. To ensure the speedy realization of all provisions of the Vienna Declaration and Programme of Action, which was the basic document for future

human rights work by the United Nations, the Commission had a number of important tasks: it had to review progress in its implementation, identify, on the basis of such a review, all measures necessary for such implementation, take or propose all relevant action and, lastly, keep its own methods of work and decision-making processes, and the work of its subcommission, under review with the aim of increasing its capacity for positive action.

14. Mrs. OGATA (United Nations High Commissioner for Refugees) said that, in 1993, the world population of refugees and internally displaced persons had reached the staggering figure of 20 million. The bitter ethnic war in the former Yugoslavia had forced nearly 4 million people to become refugees or internally displaced, and nearly 600,000 refugees had fled the violence in Burundi in November 1993. Somalia and parts of Africa, central Asia and the Caucasus were also the scenes of massive exodus and internal displacement.

15. Most refugees were the victims of the twin scourges of human rights abuses and internal conflict, often along ethnic and sectarian lines. The connection between the work of the Commission and the work of her Office was thus clear, for human rights violations were a major factor in the flight of refugees and an obstacle to their return. Safeguarding human rights in countries of origin was therefore crucial to the prevention and solution of refugee problems; safeguarding human rights in countries of asylum was essential to the protection of refugees. In that connection, it was encouraging that the General Assembly had, at its forty-fourth session, adopted a resolution that, inter alia, noted the relationship between safeguarding human rights and preventing refugee problems and called on her Office to increase its cooperation with the Commission, the Centre for Human Rights and other relevant international bodies and organizations.

16. Despite the tendency to distinguish between human rights and refugee issues during the cold war, the link between the two had since become increasingly evident. UNHCR had in effect become an operational human rights organization through its activities to protect the human rights of refugees, returnees and the internally displaced.

17. The protection of refugees in the country of asylum was grounded in international human rights. The principle of non-refoulement - the prohibition against sending a refugee back to a territory where his or her life or freedom would be in danger - was the cornerstone of refugee law. It was linked both to the human right to seek asylum from persecution and to the right to life and the right to freedom from torture or other cruel, inhuman or degrading treatment or punishment.

18. She was encouraged by recent developments in the provision of temporary protection in situations of large-scale movements, but concerned by some major reversals in the commitment to asylum. All too often, asylum-seekers were confronted by closed borders or legal obstacles. She thus called on the Commission to renew its appeal for the granting of protection to asylum-seekers, if only on a temporary basis.

19. Refugees and asylum-seekers were particularly vulnerable after they entered the country of asylum, and even more so if they were members of ethnic, racial, religious, cultural or political groups already in disfavour

there. Increasing numbers of attacks on refugees and asylum seekers and incidents of xenophobia and racism were deeply disturbing and threatened the very foundations of democratic society.

20. Particularly vulnerable were refugee women and girls. In 1993, the UNHCR Executive Committee had discussed sexual violence against refugee women and girls. Its conclusions - which had been endorsed by the General Assembly - contained detailed recommendations on specific action to protect women and girls and to assist the victims of attacks. UNHCR was implementing special programmes pursuant to those recommendations and incorporating the welfare of women and girls into its mainstream programmes. She urged the Commission to include questions relating to displaced women in the mandate of the proposed special rapporteur on violence against women.

21. Voluntary repatriation, whenever possible, was the ideal solution to the refugee problem. It was incumbent on the country of origin to ensure that refugees could return home in safety and dignity. Many refugees, including over 1 million Afghans, had recently been returning home to situations that were far from safe. She was rather more optimistic about the 370,000 Cambodians whom her Office had helped to repatriate in 1993. As the role of UNHCR in monitoring the safety of returnees could not but be a limited one, it was vital to develop an effective human rights system that could contribute to long-term confidence-building and stability. In that context, the operational presence of the Centre for Human Rights in Cambodia was a major development; the Commission should examine its impact and encourage similar initiatives in other countries.

22. Beyond mitigating the consequences of flight, the international community must address the causes of the refugee problem. Persecution and the expulsion of minorities had become the predominant causes, often because other groups in society felt threatened. The security of all groups in society was essential to the protection of minorities. The prevention and reduction of statelessness was an important aspect of protecting minority rights, particularly where national boundaries or international identities had been redefined in the context of newly independent States.

23. The continued work of the Commission and its organs in protecting minorities would be of great value in preventing refugee flows and displacement. Greater stress should be placed on public information and education programmes to promote tolerance and respect for human rights. Non-governmental organizations and the media had crucial roles to play in that regard.

24. As refugee flows were often an indicator of potential human rights problems, the Commission might examine the human rights situations in the countries of origin as a preventive measure. It might wish to consider that proposal in its discussion of the reorganization of its agenda and methods of work.

25. In many places, returning refugees were intermingled with returning internally displaced persons, whose plight was increasingly of concern to her Office. In an effort to prevent refugee flows, it had assisted internally displaced persons in northern Sri Lanka, Azerbaijan and Tajikistan. It was

helping some 2.7 million internally displaced persons in Bosnia and Herzegovina, in addition to the 1.2 million refugees who had fled the country. The provision of international protection and assistance to the internally displaced by her Office had been supported by the General Assembly at its forty-eighth session. The protection it provided to the internally displaced was similar to that provided to refugees. It monitored their human rights and intervened with the appropriate authorities to seek corrective action.

26. Through its presence and monitoring, her Office prevented human rights abuses and the involuntary return of the internally displaced to areas of danger, and facilitated their right to return home if conditions were conducive. As in the case of refugee protection, her Office had found international presence and access to the victims to be the most effective means of ensuring protection against abuse of their human rights.

27. Refugee law provided an extensive framework of protection for refugees. It was not directly applicable to the internally displaced, but UNHCR applied some of its principles in practice, by analogy. Unlike refugee law, humanitarian law, more specifically the Geneva Conventions and Protocol II additional thereto, contained provisions that were applicable to the protection of the internally displaced. However, those provisions had certain limitations and it was thus left to human rights law to provide the necessary protection to internally displaced persons.

28. The lack of clarity of legal principles had not proved an obstacle to effective action where the cooperation or consent of the relevant authorities was forthcoming. Thus, while the development of international legal principles and standards was desirable, it was well to bear in mind that humanitarian access depended in practice not so much on the elaboration of legal norms as on the ability and political will of the international community to persuade States to accept responsibility for the welfare of the people within their territory.

29. Needless to say, the complexity of the challenge of internal displacement would require continued and enhanced cooperation between the various actors. In that respect, she noted that the General Assembly had called upon her Office to engage in further consultations with appropriate international organizations, including the Special Representative of the Secretary-General on Internally Displaced Persons, the Department of Humanitarian Affairs and the International Committee of the Red Cross (ICRC).

30. In conclusion, she said that preventive strategies must take into account the full range of factors that compelled people to leave their homes: political, social, economic and environmental. A comprehensive and integrated approach was therefore required, encompassing political action and development assistance as well as humanitarian responses and the protection of human rights. More systematic attention should be given to including an international human rights component in United Nations operations to address internal conflicts.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT:

(a) POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS (item 7 of the provisional agenda) (continued) (E/CN.4/1994/17, 18*, 19 and Add.1, and 20; E/CN.4/1994/NGO/6; E/CN.4/1993/16; A/CONF.157/PC.73)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (item 8 of the provisional agenda) (continued) (E/CN.4/1994/21 and Corr.1-2, and 99)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (item 15 of the provisional agenda) (continued) (E/CN.4/1994/67 and 68; E/CN.4/1993/3; CCPR/C/2/Rev.3)

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (item 16 of the provisional agenda) (continued) (A/CONF.157/PC/62/Add.11/Rev.1; A/CONF.157/TBB/4 and Add.1)

31. Mr. HAFYANA (Libyan Arab Jamahiriya) said that, as it approached the twenty-first century, the international community must attach particular importance to the protection of human rights and fundamental freedoms and to the right of peoples to choose freely their own paths of development. Each step in that direction was a victory for freedom and for the right of peoples not to be subjected to foreign domination or interference in any form.

32. All the efforts at the international and national levels could not, however, hide certain disturbing facts. International relations were governed not by policies based on a balanced distribution of power and resources but by principles of dependence and subjugation. There had been no qualitative or radical change in North-South relations, which meant that an imbalance between the two regions remained. Indeed, the gap between North and South was widening: developed countries were becoming wealthier and the poorer countries were becoming ever more backwards.

33. The industrialized countries of the North had achieved economic growth; they monopolized the markets for raw materials and the cycles of development, production and consumption and they possessed advanced technological knowledge. All those achievements had come about while the peoples of Africa, Asia and Latin America had been under colonial domination and occupation. The effects of that historical period were still reflected in international relations. Despite the multiplicity of cooperation and development strategies and assistance programmes, the relationship of dependency between South and North still existed.

34. There was increasing interest in the principles of international law and a new international economic order as an alternative to the previously

prevailing international order, one major pole of which had collapsed. Such debate emphasized the Western concepts of democracy, political pluralism and the market economy; as well as the need for changes in the economic infrastructures of the third world. Yet, in the midst of a litany of slogans, the developing countries had increasingly lost control of their economic and social development and had had to swallow the bitter pill of economic solutions which caused great hardships to their peoples. The policies of the major international donors and lending institutions were increasing the pressure on the developing countries and, as a result, those countries were no longer able to find a balance between the daily needs of their peoples and the measures imposed upon them from outside.

35. Donor countries were using economic assistance programmes to regain control of the developing countries. Lending policies were being transformed into tools for social and economic destabilization. The developing countries were also suffering the negative effects of events occurring abroad, including the economic crisis, a drop in growth rates in certain countries, rising unemployment, and a reduction in the prices of commodities. At the domestic level, they were menaced by civil war, famine and disease and were suffering from the mismanagement and rationalization of expenditures.

36. It was difficult to see how, in those circumstances, the international community could speak of a new international economic order. The industrialized countries were holding on tenaciously to their hegemony in international relations and making blind use of power and irrational decisions such as threats of invasion, economic blockades and boycotts.

37. The change in the role of the Security Council was a matter of serious concern. It was abusing its authority by improperly interpreting and applying the provisions of the United Nations Charter to support initiatives which did not serve the cause of international peace and security. Chapter VII of the Charter had been invoked in a number of cases where the criterion of an act of aggression by one State against another had not been met. The members of the Security Council were using the authority vested in them to serve their own political objectives.

38. The Security Council applied a double standard in elaborating its resolutions and did not treat all States equally. Chapter VII of the Charter had been invoked against his own country because of suspicions that some Libyan citizens had been responsible for an accident. Yet, standards were different when it came to the actions of the Israeli Government, which the Security Council protected.

39. The Security Council treated harshly those countries whose policies did not accord with those of its permanent members. It used its authority in an arbitrary manner and had become a forum serving the political interests of some of its members. The use of a double standard was actually a racist policy based on intolerance and prejudice against third-world countries.

40. The principles of international law were universally accepted, but only if the same criteria were applied to all and if, in the application of those principles, the national sovereignty of States was respected. The international community was trying to create a new world order, based on the

principles of international law and respect for human rights. It was seeking to build a new pattern of relationships between countries, governed by mutual respect, peaceful cooperation, equal share in the burden of development, access for all to technological progress, and respect for the right to development.

41. At the same time, developing countries could not but wonder who was creating that new world order, whose interests it would serve, and what role the smaller nations would play in it. He wondered whether the new world order would truly take into account political, social and cultural diversity; whether it would be based on peaceful cooperation, respect for the right of development and sovereignty over natural resources; and whether it would ensure an equitable use of resources and technological knowledge for the purposes of development within the framework of mutual cooperation. There was a grave danger that, instead, the new world order would maintain the economic inequities imposed by the wealthier nations on the poorer, which were unable to exercise free choice because of the pressures to which they were subjected.

42. All the efforts made in the cause of human rights could not prevent the developing countries from having such anxieties, especially as they continued to be subjected to the effects of resolutions in which they had had no voice.

43. Mr. SHARP (Australia) said that the interim report of the Independent Expert on the long-term effectiveness of the human rights treaty system (A/CONF.157/PC/62/Add.11/Rev.1) would have a direct bearing on the implementation of the recommendations of the World Conference on Human Rights on ways and means of making the treaty system more effective. The current treaty system placed substantial burdens on the Centre for Human Rights and on the States parties. Fulfilling the reporting obligations was a major undertaking even for a middle-ranking industrial nation like Australia. For smaller nations, that task was even more daunting.

44. His delegation endorsed the Independent Expert's conclusion that the regime had reached a critical crossroads. The interim report would provide a sound basis for discussion of improved coordination, efficiency and effectiveness of the United Nations human rights organs (Vienna Declaration and Programme of Action, part II, para. 17) by the Working Group on Human Rights of the Third Committee.

45. In addition, the Commission might consider a number of elements of the interim report as a basis for its discussion of a comprehensive strategy to improve the effectiveness of the treaty system. It should consider the preparation of a programme to achieve universal ratification of the six core treaties as the cornerstone of the human rights programme and set the year 2000 as a target date therefor. It should stress, in particular, the desirability of universal ratification of the International Covenants on Human Rights. Special attention should be paid, in that connection, to the specific needs and problems of those Member States with populations of under 2 million which had not yet ratified either Covenant.

46. The treaty bodies catalytic and non-confrontational role must be highlighted. Their main role should be to monitor domestic monitors. To that end, the participation of non-governmental organizations (NGOs) and

international institutions in the preparation of reports should be encouraged. Completed reports should be disseminated at the national level.

47. The number of overdue reports - more than 1,000 - threatened to undermine the credibility of the treaty system. Advisory services and technical assistance should be provided to States parties whose reports were seriously overdue. Committees could also examine the situation of States parties even in the absence of reports, a strategy which his delegation welcomed.

48. The treaty system could also be improved by reducing the duplication of reporting requirements under the different instruments, including the Conventions of the International Labour Organisation, and by generally reducing the reporting burden on Member States. That could be achieved by encouraging States to use cross-referencing in writing reports; by designating specific national administrative units to coordinate the reports submitted to all treaty bodies; by coordination between the treaty bodies and ILO in order to identify overlap between instruments; and by encouraging Governments and treaty bodies to consider preparing "global" reports and replacing comprehensive periodic reports with specifically tailored, thematic reports rather than article-by-article reports. All those proposals would help to ensure that the reports produced were comprehensive and honest, not too burdensome to prepare, held up to expert scrutiny and accessible to the public.

49. Committees, too, could improve the reporting process by improving their working methods. The adoption of uniform practices and standard terminology would make the reporting process more transparent and less complex. Providing sufficient advance notice of questions would ensure more effective non-confrontational dialogue. However, his delegation agreed with the Independent Expert that the integrity of the treaty system and its ability to safeguard human rights must not be sacrificed to illusory notions of streamlining and efficiency.

50. Mr. LIU Zhenmin (China), having expressed his appreciation to the Independent Expert for his report and to the treaty bodies for their work in monitoring the implementation of the relevant conventions, said his delegation endorsed the recommendation of the meeting of persons chairing human rights treaty bodies aimed at streamlining and rationalizing reporting procedures. As many treaties and conventions had identical or similar articles, treaty bodies should coordinate more closely in order to reduce unnecessary duplication of efforts. Treaty bodies should also give full consideration to the recommendation contained in the Vienna Declaration and Programme of Action that each State should submit one overall report on its treaty obligations.

51. The mounting backlog of unprocessed reports could be reduced by using advanced technology to process those huge quantities of documents. A computerized database should be developed to that end. Consideration should also be given to improving meeting schedules with a view to saving resources and increasing efficiency.

52. The international community should show flexibility towards developing countries which had special difficulties in meeting reporting deadlines. The preparation of a report in a country like China, with a population of

over 1.1 billion people, 56 ethnic nationalities, a vast territory and limited resources, required much more time and human, material and financial resources than in some other countries. China had strictly adhered to its treaty obligations and had made every effort to submit its reports on time. It hoped, however, that the relevant treaty bodies would bear in mind its complex situation.

53. Mr. KOSSENKO (Russian Federation) said that the International Covenants on Human Rights constituted the fundamental international structure for protecting human rights and were instruments for global cooperation and mutual understanding. The universality and interrelationship of the human rights consolidated in the Covenants had been unanimously reaffirmed in the Vienna Declaration and Programme of Action.

54. One condition for ensuring the universal significance of the covenants was the confirmation by successor States that they continued to be bound by the obligations of the predecessor State vis-à-vis the Covenants and other basic international human rights treaties. In proposing to the Commission a draft resolution on the subject, his delegation hoped that it would make it possible to avoid gaps in the legislation of vast regions where new States were being formed. In that connection, he hoped that the States that had been territories of the former Soviet Union would soon declare that they were bound by the obligations contained in international human rights treaties.

55. His delegation agreed, in particular, with the ideas contained in the general recommendations by the Committee on the Elimination of Racial Discrimination concerning successor States and the decisions taken by the Human Rights Committee on the basis of the reports submitted by some Republics of the former Yugoslavia. He also wished to draw attention to the views expressed by the Human Rights Committee concerning the continued validity of the International Covenant on Civil and Political Rights in respect of successor States, even before they submitted declarations confirming their succession to the international human rights treaties.

56. The Russian Federation was not passive with regard to dealing with humanitarian questions in the Euro-Asian territories of the former Soviet Union. On its initiative, the CIS countries had signed a declaration confirming that they continued to be bound by international obligations in the human rights field; a CIS commission on human rights had been established; a convention had been drafted on protecting the rights of ethnic, linguistic, cultural and religious minorities; and consideration was being given to the drafting of a CIS convention on human rights.

57. Considerable work was also being done in Russia itself. The Office of the President of the Russian Federation had set up a Human Rights Commission and the Parliament had appointed, in accordance with the Russian Constitution, a Human Rights Commissioner of the Russian Federation. On the instructions of the President and taking into account the recommendations of the World Conference on Human Rights a federal human rights programme was being drafted. His Government's activities in those matters derived from a feeling of moral responsibility for the conduct of democratic processes and the status of human rights throughout the post-Soviet territory. It sincerely hoped that its efforts would be supported by other States of the Community.

58. It was clear that accession to the Covenants did not mean the automatic victory of human rights at the national, regional and international levels. That could happen only as a result of lengthy and decisive efforts to establish a State and society governed by the rule of law. In Russia, the adoption of the first genuinely democratic Constitution was but a first step on the road to a stable democracy. Much remained to be done to convert international standards and principles and the spirit of the human rights conventions into a national reality.

59. It was to be hoped that the new democratically-elected Parliament of the Russian Federation would give those questions special consideration. His Government planned to strengthen electoral freedom by ensuring genuine freedom for the opposition and freedom of speech. It was determined to proceed unswervingly along that road in the firm belief that only in a society governed by democratic law could an individual be free and responsible for his or her own fate.

60. With regard to the report of the Working Group on the Right to Development (E/CN.4/1994/21), which sought to determine the obstacles to the realization of the right to development, his delegation thought that the human rights bodies in the United Nations should first devote their attention to the legal aspects of the right to development rather than to its economic parameters. It took the view that the right to development should not be an instrument of politico-economic pressure exerted by one part of the world on another but should be the object of dialogue and cooperation.

61. In that context, the Commission should continue to consider critical questions such as the right to own property and the elimination of extreme poverty. Consideration should be given to the elaboration of a universal strategy and national measures to combat extreme poverty. In that connection, primary attention must be given to ensuring a guaranteed minimum of social protection, through the increased participation of transnational corporations and the private sector in strengthening legal protective State structures and machinery.

62. The problem of the universalization of the International Covenants on Human Rights, full realization of the right to development and all human rights, and improving the work of the treaty bodies, constituted a group of priorities and non-confrontational subjects which should occupy an important place in the implementation of the Vienna Programme of Action. Monitoring of those problems could constitute a constructive part of the mandate of the United Nations High Commissioner for Human Rights.

63. Mr. HITAM (Malaysia) said that one of the four freedoms cited by President Roosevelt of the United States was freedom from want. Those ideals had been incorporated into the Atlantic Charter, which had helped to shape international human rights law, including the Universal Declaration on Human Rights and the United Nations Covenants on Human Rights. The fourth point of the eight-point Atlantic Charter affirmed the right of all States to engage in trade and enjoy access to raw materials on equal terms and the fifth point encouraged cooperation in the economic field with a view to economic advancement for all.

64. Similarly, Articles 55 and 56 of the Charter of the United Nations concerned the promotion of economic and social progress and development. Articles 1, 2, 3 and 4 of the Declaration on the Right to Development, echoing the Charter, reaffirmed that the right to development was an inalienable human right, that all human beings had a responsibility for development and should promote an appropriate political, social and economic order for development and that it was the duty of States to ensure development and to cooperate with each other to that end.

65. The right to development had also been reaffirmed by the World Conference on Human Rights (Vienna Declaration and Programme of Action, para. 10). The reference in the Vienna Declaration to extreme poverty and social exclusion as constituting a violation of human dignity appeared to define aspects of the right to development. Certainly, hunger was a violation of the basic human right to survival. The World Conference had thus underscored the emerging international consensus on the human right to development.

66. The right to development currently had political, economic, technological, environmental, cultural and social dimensions. A comprehensive, holistic approach must therefore be adopted towards its realization; one aspect of development could not be pursued to the exclusion of others. Such an approach must incorporate all the different groups of society into the developmental process.

67. Development would enhance democracy and human rights and should be the concern of the international community. In an interdependent world, international cooperation was crucial to the implementation of the Declaration on the Right to Development. Such cooperation should take place within the framework of economic interdependence and the promotion of a partnership for development, in accordance with the relevant international human rights instruments.

68. The report of the Working Group on the Right to Development, on its first session (E/CN.4/1994/21) noted that the obstacles to the implementation of the Declaration were many and often interdependent (para. 50). Although the report stressed institutional obstacles in that regard, it was less explicit about the duty of States to cooperate. Indeed, although it referred to overcoming certain obstacles at the international level, it took the view that action at the national level would be more effective (para. 55).

69. It must be emphasized, however, that a major obstacle to development was the international economic system that had been unable to narrow the ever-widening gap between the North and the South. The growing debt crisis in the developing world, the prevailing terms of trade and the conditionality of aid, perpetuated by the non-democratic decision-making process of the international economic system, thwarted the realization of the right to development. Although the human being was the centre of development, the individual could not realize that right if States did not develop.

70. The first session of the Working Group on the Right to Development appeared to have been inadequately serviced by the Secretariat, indicating that its work was not taken seriously either by the international community or by the Secretariat. The statements delivered by the representatives

of intergovernmental organizations also suggested indifference. That was, perhaps, to be expected when only two of the Commission's 21 agenda items and only one of some 39 working groups and mechanisms were devoted to economic, social and cultural rights.

71. His delegation called on the international community to address all human rights globally and on the same footing. The international community must stress universality, objectivity and non-selectivity in its deliberation of human rights issues.

72. His delegation was committed to the pursuit of an international consensus on the realization of the right to development and wished to play a constructive role in that regard. In that spirit, it had participated in the consultations initiated by the Chairman of the Movement of Non-Aligned Countries in respect of the draft resolution on the right to development. The pursuit of political consensus, however, was a means to an end and not an end in itself.

73. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that, according to the 1993 report of the United Nations Development Programme (UNDP), some 17 million persons in the developing countries died every year of infectious or parasitic diseases; 95 per cent of HIV carriers were in those countries; 800 million persons there did not have enough to eat; 1,300 million persons - or one third of the population of the globe - was living in abject poverty; 34,000 infants died every day of malnutrition and disease; and the destruction of the tropical forests was progressing at a rate equivalent to the surface of one football field per second.

74. The report also stated that there was a link between the official development assistance (ODA) provided by the rich countries and the supply of military equipment, and that only one quarter of such assistance went to the 10 countries in which three quarters of the world's poor lived. His organization was particularly sensitive to that problem, because there was a correlation between the growth of racism in all its current forms and the phenomenon of social exclusion throughout the world.

75. A case in point was Algeria, whose debt servicing had amounted to 9,000 million dollars in 1993, or nearly 90 per cent of the country's exports. An Algerian Minister had recently stated that receipts would probably be lower in 1994, even if oil prices remained stable. If that hypothesis was confirmed, there would be nothing left after debt-servicing to pay for the country's imports of consumer products.

76. The consequences of the elimination of social programmes required by the International Monetary Fund (IMF) in exchange for debt rescheduling, were a cause for concern. French-speaking Africa had just been forced to accept a swingeing devaluation of the CFA franc, which could theoretically improve the balance of trade of the countries concerned if they could more than double their export penetration of the world market, but nobody seriously believed in that possibility.

77. The real cause of the current crisis had been the policy of encouraging the developing countries, particularly in Africa, to contract ever-increasing debts. To remedy that situation, the countries of the North would have had to go into debt themselves and make massive purchases of the products of their debtors, which had clearly not happened. Rescheduling of the debt had created such a crushing and long-lasting burden that the situation of the debtor nations was not unlike that of an individual in the hands of the moneylenders.

78. UNDP experts had focused on such genuine development factors as health, education and training and the promotion of women, factors that were much more important than such purely economic considerations as the world market and the profit-earning capacity of capital.

79. In his view, one solution would be to work towards the creation, within the developing countries, of regional unions outside the world currency circuit. There were a number of third-world countries that could play a leading role in that regard. Regional convertibility of currencies, for example in Africa, could help satisfy needs and open the way to productive development.

80. There was no reason why the developing countries should accept Northern recipes, which in any event had not proved relevant to social justice and equal opportunity. The countries of the South could find their own way out, provided they were not prevented from doing so.

81. Mr. OZDEN (Centre Europe - Tiers Monde) said that the coup d'état of September 1991 had plunged Haiti into a terrible economic crisis. The Security Council resolutions imposing an economic and diplomatic embargo and a ban on the delivery of oil and weapons to the de facto Government had been an unmitigated failure. In August 1993, the United Nations and the Organization of American States had made an urgent appeal to the international community for funds to meet Haiti's needs in humanitarian aid, the goal being to collect $62.7 million for food, health care, drinking water and improved sanitation.

82. Haiti was one of the world's most backward countries. Its roads, where they existed, were in a terrible state; drinking water was scarce and electricity rare; hospitals lacked supplies and the schools were closed. There was no trace of the millions of dollars in development aid spent there over the years. Haiti's foreign debt, currently at $750 million, had been contracted by its corrupt leaders in the name of the Haitian people, but not for its benefit.

83. It was difficult to see how the Haitian people could still believe in the exercise of its right to development. There could be no real development without respect for human rights and no real rights without the resources to exercise them. The constant violations of human rights had speeded up the departure of those who could escape, particularly the educated leaders of the democratization process. Regrettably, the United States of America was encouraging the departure of educated Haitians by readily accepting them, whereas the whole world knew how it treated the impoverished boat people. It was difficult not to believe in a complicity between the United States and the

leaders of the military putsch. It was to be hoped that the United Nations and the Organization of American States would, at long last, give firm support to the Haitians seeking to promote democracy.

84. His organization had repeatedly denounced structural adjustment programmes because of their tragic consequences, had called for the creation of "safety nets" to alleviate the situation and encouraged the start of a real dialogue to try to influence the international financial institutions. The Commission might wish to recommend that those bodies review their initial mandate, as set forth by the Secretary-General in his report (E/CN.4/Sub.2/1993/18). It might also include in its appeal the conclusions contained in the resolution, adopted by the International Labour Conference on 21 June 1993 concerning social protection and the alleviation of unemployment and poverty, and the social dimension of structural adjustment and transition to a market economy. In that connection, he drew the Commission's attention to his organization's written statement (E/CN.4/1994/NGO/16).

85. Given the urgent need to alleviate the situation of the poorest population sectors, a new approach to development was required that gave priority to agriculture and food in the fight against famine and malnutrition, encouraged the creation of cooperatives and socio-economic initiatives to improve living conditions and create employment and strengthen the participation of ordinary members of society vis-à-vis the government authorities. That point was crucial: the social partners must play an active part in identifying, preparing, implementing, following up and evaluating the entire technical cooperation programme.

86. His organization had been closely monitoring developments in Madagascar for several years. The economic destabilization brought about by the structural adjustment programme had triggered an alarming wave of new impoverishment. The persons who exercised monopoly control over the supply of basic commodities had made use of the IMF's price-liberalization requirement to raise prices drastically. Since 1991, the price of rice, the basic staple of the Malagasy diet, had risen by 40 per cent and the cost of sugar had tripled, making it twice as expensive as in Switzerland, although Madagascar was a sugar-producing country with five refineries. Studies had shown that shortages had been created artificially. The spread of poverty had given rise to an explosion of criminal activities. However, free elections had been held in the country in 1993 and it was to be hoped that the new leaders would take the steps needed to eradicate the rampant poverty there.

87. Mr. FLINTERMAN (Netherlands) said there had been a number of promising developments with regard to the implementation at the regional and international levels of economic, social and cultural rights.

88. At the regional level, the States parties to the American Convention on Human Rights had adopted an Additional Protocol containing a long list of economic, social and cultural rights. States parties had to submit periodic reports on the measures that they had adopted to ensure respect for those rights. The most significant aspect of the Protocol, however, was that it provided for an individual complaints procedure in relation to violations of the right to organize trade unions and the right to education. That Protocol

was something of a breakthrough: social and economic rights were no longer seen as by-products of economic development, but also as values in themselves.

89. The African Charter on Human and Peoples' Rights, a very innovative and comprehensive human rights instrument, contained a wide range of both civil and political and economic, social and cultural rights. Apart from a State complaints procedure, the Charter also referred to communications submitted by individuals, non-governmental organizations or other groups, in which violations of all the rights enumerated in the Charter, including economic, social and cultural rights, could be cited.

90. The protection of social, economic and cultural rights in the Council of Europe had long been confined to the European Social Charter, which had a weak supervisory mechanism. A Ministerial Council of the member States of the Council of Europe had recently, however, taken a first step to strengthen the Charter by adopting a Protocol aimed, inter alia, at giving more prominence to the Committee of Experts, its supervisory body, and had also adopted a resolution concerning the preparation of an optional draft protocol that defined a system of collective complaints. The member States of the Council of Europe had thus recognized the principle that economic, social and cultural rights were justiciable.

91. At the international level, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had recently undertaken a number of promising initiatives in such important areas as the right to adequate housing, human rights and extreme poverty, the human rights dimension of population transfers and human rights and income distribution. That work should be followed up.

92. His delegation also welcomed the meaningful results of the Seminar on appropriate indicators to measure achievements in the progressive realization of economic, social and cultural rights, the recommendations of which deserved serious consideration. In particular, it endorsed the recommendation (A/CONF.157/PC/73, para. 183) that "priority be given to defining the content and clarifying the obligations related to specific economic, social and cultural rights" and the statement that further intellectual development of the rights was necessary to be able to determine the most appropriate way to assess progressive achievement.

93. His delegation greatly appreciated the analytical report compiled by the Secretary-General on forced evictions and endorsed his recommendations on preventive and compensatory measures (E/CN.4/1994/20, paras. 147-184). Further study on the broader issue of the protection of housing rights should not begin, however, until the Commission had considered the establishment of a more permanent mechanism, such as a special rapporteur on the practice of forced evictions, as suggested in paragraph 185 of the Secretary-General's report.

94. His delegation welcomed the final report on the right to own property (E/CN.4/1994/19), which would be very useful in connection with the further study on ways of strengthening the right to adequate housing and preventing forced evictions.

95. Special mention should be made of the Committee on Economic, Social and Cultural Rights which had breathed new life into the provisions of the International Covenant on Economic, Social and Cultural Rights. His delegations urged all States that had not yet done so to ratify the Covenant and States that had submitted reservations to consider withdrawing them. The Committee should continue its excellent practice of adopting general comments, thereby specifying the legal obligations which States had accepted under the Covenant.

96. It should also make appropriate use of the information provided by non-governmental organizations on the situation of economic, social and cultural rights in States whose reports were due for consideration. Such information could help to give substance to the dialogue between the reporting State and the Committee. If deemed desirable, the Committee should continue to request the reporting State to submit an additional report containing information on the points raised by the Committee and not satisfactorily answered.

97. His delegation was pleased that the Committee had requested its Chairman to continue his study of an optional protocol to the Convention that would provide for an individual complaint procedure. The Minister for Foreign Affairs of his country had requested the Advisory Committee on Human Rights and Foreign Policy, made up of 17 independent experts, to advise him on that highly important and sensitive issue. Any individual and/or collective complaint procedure in the field of economic, social and cultural rights should be meaningful, but should not give rise to false expectations.

98. His delegation would like the advisory services of the Centre for Human Rights to pay more attention to economic, social and cultural rights, bearing in mind the indivisibility and interdependence of all human rights. It also favoured close involvement of the Centre in the preparations for the World Summit for Social Development (1995), because the objectives of that meeting were closely related to the realization of economic, social and cultural rights.

99. Given the wording of Economic and Social Council resolution 1503 (1970), the confidential procedure, which focused primarily on civil and political rights, could also be used in situations which appeared to reveal a consistent pattern of gross and reliably attested violations of economic, social and cultural rights. It might, however, be more appropriate to establish a specific confidential procedure for such situations. His delegation wanted to elicit comments and criticisms on the idea and to promote new ways of thinking. Its objective was that the world community should strengthen the well-established but often unimplemented principle that a democratic State based on the rule of law must necessarily have a social component anchored in the law.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

100. The CHAIRMAN said that the Secretariat would distribute his informal explanatory memorandum, on agenda rationalization. He would continue his consultations on the basis of the paper and would appreciate any suggestions that members of the Commission might wish to make.

The meeting rose at 1 p.m.